



## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

**[Docket No. FWS–R6–ES–2012–0107]**

**[4500030113]**

**RIN 1018–AY26**

### **Endangered and Threatened Wildlife and Plants; Threatened Status for the Distinct Population Segment of the North American Wolverine in the Contiguous United States**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are reopening the public comment period on the proposed rule to list the distinct population segment (DPS) of the

North American wolverine (*Gulo gulo luscus*) in the contiguous United States as threatened under the Endangered Species Act of 1973, as amended. The proposed rule was published in the **Federal Register** on February 4, 2013. We are reopening the comment period to allow the public an additional opportunity to review and comment on the proposed rule, as well as the peer review and public comments that were submitted during the first comment period. Comments already submitted need not be resubmitted, as they will be fully considered in preparation of the final rule, which we intend to issue by February 4, 2014, as required by the Endangered Species Act.

**DATES:** We will accept public comments until [**INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on that date.

**ADDRESSES:** *Document availability:* You may obtain a copy of the proposed rule on the Internet at <http://www.regulations.gov> at Docket No. FWS–R6–ES–2012–0107 or at <http://www.fws.gov/mountain-prairie/species/mammals/wolverine/>. All comments received during the first comment period, as well as supporting documentation we used in preparing the proposed rule, can be found at <http://www.regulations.gov> in Docket No. FWS–R6–ES–2012–0107. Comments and materials we receive during this reopened comment period will also be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Montana Field Office (see **FOR FURTHER INFORMATION CONTACT**).

*Comment submission:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal:

<http://www.regulations.gov>. In the Search box, enter FWS–R6–ES–2012–0107, which is the docket number for this rulemaking action. You may submit a comment by clicking on “Comment Now!”

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R6–ES–2012–0107; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments **only** by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Information Requested** section below for more details).

**FOR FURTHER INFORMATION CONTACT:** Jodi Bush, Field Office Supervisor, U.S. Fish and Wildlife Service, Montana Field Office, 585 Shepard Way, Helena, MT 59601; telephone 406–449–5225; facsimile 406–449–5339. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

On February 4, 2013, we published in the **Federal Register** a proposed rule to list the distinct population segment of the North American wolverine (78 FR 7864) under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 et seq.). The proposed rule had a 90-day comment period, which ended May 6, 2013. During the comment period, we received several comments from the public, States, and peer reviewers that questioned our analysis of the best available scientific information that we used in the proposed rule. Specifically, some of the peer reviewers and States disagreed with our determination that wolverines are dependent on persistent late spring snow.

Some commenters thought that wolverine distribution was not restricted by access to snow dens and that wolverine distribution and behavior was better explained by other hypotheses, such as the need for cold places to cache food. They also disagreed with our interpretation of the scientific information regarding the likely effects of climate change on wolverines in the future. Our assessment of climate change impacts on wolverines used wolverines' snow dependence and suitable wolverine habitat and climate change models to predict future impacts of climate change on wolverine habitat suitability. Some of the commenters disagreed with this assessment and suggested that if the model of wolverine habitat that we used was not scientifically supported, then any analysis of climate change impacts to wolverines based on that habitat model may be flawed. Other peer reviewers were supportive of our interpretations of this information and provided analyses to support their views.

We are reopening the comment period to seek additional public comment on the proposed rule and on the issues outlined below. To ensure the public has an adequate opportunity to review and comment on the new information submitted to us on the

proposed rule, we are reopening the comment period until the date specified above in **DATES**. We intend to issue a final determination on this rule by February 4, 2014.

The information provided by the peer-reviewers can be found at our peer-review website at [http://www.fws.gov/mountain-prairie/science/peer\\_review.cfm](http://www.fws.gov/mountain-prairie/science/peer_review.cfm) and also at the Federal eRulemaking Portal: <http://www.regulations.gov>. Individual comments may be read and specific comments may be found using the Search box function at that website.

### **Information Requested**

We will accept written comments and information during this reopened comment period and will consider information and recommendations from all interested parties. If you previously submitted comments or information on the proposed rule, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in the preparation of our final determination. We intend that any final action resulting from this proposal be based on the best scientific and commercial data available and be as accurate and as effective as possible.

We request comments or information from the public, other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

- (1) Whether wolverines are dependent on cold and snowy conditions and habitat that closely approximates the area covered by snow until late spring (May 15).
  - a. Whether wolverines are dependent on such habitats defined by persistent spring snow for feeding, breeding, and sheltering.

- b. Whether the projected impacts of climate change will result in loss of habitat for wolverines.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Act, which are:

- a. The present or threatened destruction, modification, or curtailment of its habitat or range;
- b. Overutilization for commercial, recreational, scientific, or educational purposes;
- c. Disease or predation;
- d. The inadequacy of existing regulatory mechanisms; or
- e. Other natural or manmade factors affecting its continued existence.

(3) Information regarding the threats we identified in the proposed rule, or threats to the species that we may have overlooked in the proposed rule. Threats we identified were:

- a. Habitat loss due to climate change;
- b. Regulated trapping of wolverines and trapping of wolverines incidental to trapping for other species; and
- c. Inbreeding and related genetic and demographic effects of small and isolated populations.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include. Please note that submissions merely stating support for or

opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species must be made “solely on the basis of the best scientific and commercial data available.”

You may submit your comments and materials concerning this proposed rule by one of the methods listed above in **ADDRESSES**. We request that you send comments **only** by the methods described in **ADDRESSES**.

If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

### **Authority**

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Date: October 23, 2013

/s/ Stephen Guertin

Acting Director, U.S. Fish and Wildlife Service

**Billing Code 4310-55**

**[FR Doc. 2013-25849 Filed 10/30/2013 at 8:45 am; Publication Date: 10/31/2013]**